

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No. 09-CR-186

DEANDRE BEASON,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE CALLAHAN'S
RECOMMENDATION (DOC. # 365) AND DENYING DEFENDANT'S
MOTION TO SUPPRESS EVIDENCE (DOC. # 302)

The defendant, Deandre Beason, filed a Motion to Suppress Evidence Seized from 2576 N. 12th Street, Milwaukee, Wisconsin (Doc. # 302).¹ In the motion, Beason contends that the affidavit submitted in support of the application for the search warrant on 2576 N. 12th Street did not establish probable cause that evidence of a crime was present. Further, Beason asserts that the evidence seized and that has been attributed to him was found in an area not covered by the warrant.

Magistrate Judge William Callahan denied the defendant's motion for an evidentiary hearing on the motion to suppress because this issue was one that could be decided on the briefs. On April 27, 2010, Judge Callahan issued a Recommendation that this court deny Beason's motion after considering the totality of the circumstances and finding that there was probable cause to issue the search warrant because: 1) the informant was reliable; 2) the information supplied by the informant was corroborated and supplemented by law enforcement observation and wiretapped conversations; 3) the time between the information obtained by the affiant and the issuance of the warrant was relatively short, especially in relation to the duration of the conspiracy. He also found that law enforcement had probable cause to search the entire

¹ The next day, the defendant filed a Motion to Sever (Doc. # 306). That motion was granted by the magistrate judge on March 26, 2010.

12th Street residence, including the attic where a firearm was located, inasmuch as the warrant covered both units of the duplex. The Recommendation directed the parties to 28 U.S.C. § 636(b)(1)(A)-(C) and General Local Rule 72.3, and noted that they had ten days from service of the Recommendation to file written objections for consideration by this court. However, no objections were filed.

On dispositive matters and certain other matters enumerated in 28 U.S.C. § 636(b)(1)(A) and Fed. R. Crim. P. 59, including motions to suppress evidence, a magistrate judge may only propose findings and make recommendations. A district court must review de novo the recommendations of the magistrate judge to which a party timely objects. 28 U.S.C. § 636(b)(1)(C); Fed. R. Crim. P. 59(b)(2), (3). However, portions of a recommendation to which no party objects are reviewed for clear error. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). Thus, the de novo standard of review applies only to matters on which a party objects to a magistrate judge's recommendation (rather than an order) on the issues set forth in § 636(b)(1)(A) and Fed. R. Crim. P. 59(b)(1).

The court has reviewed Judge Callahan's Recommendation as to defendant Beason's Motion to Suppress and finds no clear error. Therefore,

IT IS ORDERED that Magistrate Judge Callahan's Recommendation (Doc. # 365) is adopted, and for the reasons set forth by the magistrate judge, defendant Beason's Motion to Suppress Evidence (Doc. # 302) is denied.

Dated at Milwaukee, Wisconsin, this 16th day of December, 2010.

BY THE COURT

/s/ C. N. Clevert, Jr.
C. N. CLEVERT, JR.
CHIEF U.S. DISTRICT JUDGE